

Apr 04, 2019

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

WILLIAM DONALD HARGROVE,

Petitioner,

v.

JAMES KEY,

Respondent.

No. 2:18-cv-00281-SMJ

**ORDER DENYING MOTION TO
ALTER JUDGMENT**

Before the Court, without oral argument, is Petitioner William Donald Hargrove's Motion to Alter or Amend Judgment, ECF No. 16. Respondent James Key did not respond to the motion. The Court determines that this motion should not be construed as a successive habeas petition because it does not raise an argument or ground for relief that was not raised initially. *See Rishor v. Ferguson*, 822 F.3d 482, 492 (9th Cir. 2016). And so, the motion is not subject to the additional restrictions that apply to successive habeas petitions under the Antiterrorism and Effective Death Penalty Act of 1996 and the Court has jurisdiction to rule on the motion.

Altering a judgment under Federal Rule of Civil Procedure 59(e) is an "extraordinary remedy" available only when (1) the Court committed manifest errors of law or fact, (2) the Court is presented with newly discovered or previously


1 unavailable evidence, (3) the decision was manifestly unjust, or (4) there is an
2 intervening change in the controlling law. *Allstate Ins. Co. v. Herron*, 634 F.3d
3 1101, 1111 (9th Cir. 2011) (citing *McDowell v. Calderon*, 197 F.3d 1253, 1255 n.1
4 (9th Cir. 1999) (en banc)). Here, Petitioner argues that the Court should vacate its
5 judgment, amend its order, and “direct the State of Washington either to release or
6 retry” him within a reasonable time. ECF No. 16 at 10. But contrary to Petitioner’s
7 assertions, he fails to meet the requisite showing and presents the same facts,
8 arguments, and authority that the Court already considered previously when ruling
9 on his habeas petition. Having carefully reviewed the motion and the entire file in
10 this matter, the Court is fully informed and denies the motion. The Court’s Order
11 Denying Petition, ECF No. 14, still stands in full force notwithstanding Petitioner’s
12 disagreement with the outcome.

13 Accordingly, **IT IS HEREBY ORDERED:**

14 Petitioner’s Motion to Alter Judgment, **ECF No. 16**, is **DENIED**.

15 **IT IS SO ORDERED.** The Clerk’s Office is directed to enter this Order and
16 provide copies to all counsel and Petitioner.

17 **DATED** this 4th day of April 2019.

18 
19 SALVADOR MENDEZ, JR.
United States District Judge